IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.13401 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

S. T. KARMACHARI CO-OPERATIVE SOCIETY

Versus

LALIT HIRABHAI POLRA

Appearance:

1. Special Civil Application No. 13401 of 2004

MR. P.S. GOGIA for Petitioner

MR. A.S. SUPEHIA for Respondent

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 02/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.A.S.Supehia, learned Advocate, appears and waives service of Rule on behalf of the respondent.

At the joint request of the learned Advocates for the parties, the matter is taken up for final hearing.

2. The grievance, which is raised by the petitioner in this petition, is regarding the non-grant of the request made by an application dated 3rd April, 2002, Exh.8, a copy of which is produced at Annexure-D to the petition at page-47. The petitioner had raised a preliminary issue before the learned Judge of the Labour Court, Junagadh in B.I.R. Application No.20 of 2000 regarding applicability of the Banking Companies Act, 1949 and also the B.I.R. Act itself. The said application was rejected by the learned Judge of the Labour Court, Junagadh by passing Order dated 9th October, 2002. Being aggrieved of that, the petitioner had preferred Revision Application, being Revision (IC) No.9 of 2002, before the Industrial Court, Rajkot, which also came to be rejected by Judgement and Order dated 30th December, 2003, which led the petitioner to approach this Court by way of this petition.

3. Heard the learned Advocates for the parties. Taking into consideration the contents of the petition and the contents of Order dated 9th October, 2002 passed by the learned Judge of the Labour Court, Junagadh, below Exh.8 and the judgement and order passed by the learned Member of the Industrial Court, the same are quashed and set aside. The learned Judge of the Labour Court is directed to decide the preliminary issue of `applicability of B.I.R. Act" afresh after taking into consideration the rival contentions of both the sides. Taking into consideration the fact that the B.I.R. Application is of the year 2000, it is directed that the learned Judge shall decide the preliminary issue as expeditiously as possible, but, not later than 30th April, 2005. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)
kamlesh*